



California Department of General Services
Procurement Division

Interim Guidelines

Pursuant to
Executive Order
D-55-02

The Executive Order

Interim Guidelines

Actions Under Way

Preparing for Day 91

PRESENTATION
OBJECTIVE

To clear the fog
and remove the
mystery

*And achieve
uniform **understanding**
and **implementation** of the
Interim Guidelines*

Executive Order
D-55-02

Intent

COMPETITIVE PROCESS

To The Maximum Extent
Required by Law

- CMAS procurements
- Master Agreements
- Procurements without competitive bidding

Review of current state procurement processes

- *To identify necessary safeguards and areas of improvement*

- **Cliff Allenby**

Department of Developmental Services Director

- **David Janssen**

Los Angeles County Chief Administrative Officer

- **Annette Porini, Chair**

Chief Deputy Director of Finance

PANEL PRODUCT

Report of findings and recommendations due to the Governor within 90 days from the date of the Executive Order (**May 20, 2002**)

No state contract or procurement greater than \$100,000 shall be executed unless awarded pursuant to a competitively bid process

Includes those bid under

- CMAS
- Any Master Service Agreement
- The Cal-Store Master Service Agreement

Any state contract or procurement in the amount of \$100,000 or less must comply with interim guidelines applicable to contracts valued at less than \$100,000

*Any state contract or procurement greater than \$100,000 and **NOT COMPETITIVELY BID** may **ONLY** be executed...*

- *To ensure the provision of essential services; or*
- *Where public health or safety so require; or*
- *In the case of an emergency as defined in Public Contract Code Section 1102; or*
- *To avoid financial loss to the state*

*And **THEN ONLY** pursuant to interim guidelines applicable to contracts over \$100,000*

Interim Guidelines

Interim Guidelines

STATE ADMINISTRATIVE MANUAL

NUMBER

~~MANAGEMENT MEMO~~

MM 02-12

Effective May 28, 2002

REFERENCES:

EXECUTIVE ORDER D-55-02

EXPIRES:

UNTIL RESCINDED

ISSUING AGENCY:

DEPARTMENT OF

GENERAL SERVICES

It is the intent of Executive Order D-55-02 that competitive bidding processes will be employed to

MANAGEMENT MEMO	NUMBER 02-12, ADDENDUM #1
SUBJECT: RESTRICTIONS REGARDING USE OF CMAS, MASTER SERVICE AGREEMENTS AND NONCOMPETITIVELY BID CONTRACTS DURING INTERIM REVIEW PERIOD CLARIFICATION OF SIGNATURE AUTHORITY AND	DATE ISSUED: JUNE 11, 2002
	EXPIRES:

ADDENDUM #1

Effective June 11, 2002

Guidelines for the acquisition of goods and services obtained through the use of CMAS, Master Services Agreements, and Non-Competitively Bid acquisition methods during the review period Established by Executive Order D-55-02. Separate standards and processes are required for Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments A, B, and C, attached hereto. Attachment D is added to identify categories pursuant to State Administrative Manual Section (SAM) 1233 that are exempt from this Management Memo. **NOTE that this Attachment D is a modified listing, and there are certain constraints placed On the use of these categories.**

ATTACHMENT B AND ATTACHMENT C HAVE BEEN MODIFIED TO REFLECT THAT CMAS/MASTER APPROVALS OVER \$100,000 BUT LESS THAN \$500,000 REQUIRE

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SUBJECT: RESTRICTIONS REGARDING USE OF CMAS, MASTER SERVICE AGREEMENTS AND NONCOMPETITIVELY BID CONTRACTS DURING INTERIM REVIEW PERIOD CLARIFICATION OF SIGNATURE AUTHORITY AND	DATE ISSUED: JUNE 11, 2002
	EXPIRES:

Tightened Approval Requirements

Services Agreements, and Non-Competitively Bid acquisition methods during the review period Established by Executive Order D-55-02. Separate standards and processes are required for Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments A, B, and C, attached hereto. Attachment D is added to identify categories pursuant to State Administrative Manual Section (SAM) 1233 that are exempt from this Management Memo. **NOTE that this Attachment D is a modified listing, and there are certain constraints placed On the use of these categories.**

ATTACHMENT B AND ATTACHMENT C HAVE BEEN MODIFIED TO REFLECT THAT CMAS/MASTER APPROVALS OVER \$100,000 BUT LESS THAN \$500,000 REQUIRE

Attachment D Management Memo 02-02 Addendum #1 (June 11, 2002)

Added Attachment D to identify exempt procurement categories

community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.

c. Services for which the state has entered into a master service agreement;
Note: This is limited to those master contracts which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered. See the DGS Procurement web page at [www.dgs.ca.gov](#) for a list of such master contracts.

MANAGEMENT MEMO	NUMBER 02-12, ADDENDUM #2
SUBJECT: RESTRICTIONS REGARDING USE OF CMAS, MASTER SERVICE AGREEMENTS AND NONCOMPETITIVELY BID CONTRACTS DURING INTERIM REVIEW PERIOD	DATE ISSUED: August 9, 2002
	EXPIRES:

ADDENDUM #2

Effective August 9, 2002

It is the intent of Executive Order D-55-02 that competitive bidding processes will be employed to The maximum extent required by law. The purpose of this Management Memo is to provide Interim Guidelines for the acquisition of goods and services obtained through the use of CMAS, Master Services Agreements, and Non-Competitively Bid acquisition methods during the review period Established by Executive Order D-55-02. Separate standards and processes are required for Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments A, B, and C, attached hereto. Attachment B and C were modified in Addendum 1 and are completely revised herein; categorizing by program and then by dollar threshold; Attachment D was added in Addendum 1 and is further modified herein to add Health Insurance Portability and Accountability Act (HIPAA) MSA guidelines to be effective August 20, 2002; California Integrated Information Network (CIIN) amendment guidelines, as well as instructions on how to amend a contract which has been awarded competitively bid.

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SUBJECT: RESTRICTIONS REGARDING USE OF CMAS, MASTER SERVICE AGREEMENTS AND NONCOMPETITIVELY BID CONTRACTS DURING INTERIM REVIEW PERIOD	DATE ISSUED: August 9, 2002
	EXPIRES:

ATTACHMENTS A AND B COMPLETELY REVISED

It is the intent of Executive Order D-55-02 that competitive bidding processes will be employed to The maximum extent required by law. The purpose of this Management Memo is to provide Interim Guidelines for the acquisition of goods and services obtained through the use of CMAS, Master Services Agreements, and Non-Competitively Bid acquisition methods during the review period Established by Executive Order D-55-02. Separate standards and processes are required for Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments A, B, and C, attached hereto. Attachment B and C were modified in Addendum 1 and are completely revised herein; categorizing by program and then by dollar threshold; Attachment D was added in Addendum 1 and is further modified herein to add Health Insurance Portability and Accountability Act (HIPAA) MSA guidelines to be effective August 20, 2002; California Integrated Information Network (CIIN) amendment guidelines, as well as instructions on how to amend a contract which has been awarded competitively bid.

Attachment D Management Memo 02-02 Addendum #1 (June 11, 2002)

The following contracts may be awarded without advertising or competitive bidding subject to the restrictions noted. The categories are either exempt by Statute, or based on a determination by DGS that competitive bidding is not Feasible (many of them were formerly referenced in State Administrative Manual Section 1233 and State Contracting Manual Section 5.80).

- Emergency contracts which are necessary for the immediate preservation of life or state property.
- Contracts for the work or services of a state, local or federal agency, the University of California, the California State University, a California community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.
- Services for which the state has entered into a master service agreement;
Note: This is limited to those master contracts which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered. See the DGS Procurement web page at [www.dgs.ca.gov](#) for a list of such master contracts.

Attachment D
Management Memo 02-02
Addendum #2
(August 9, 2002)

Attachment D Further Modified

into immediately without completion of the required paperwork for the processes Required herein. However, such contracts are subject to otherwise applicable statutory approval requirements and the reporting requirements of the Management Memo.

- a. Contracts for the work or services of a state, local or federal agency, the University of California, the California State University, a California community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.

- *Health Insurance Portability and Accountability Act (HIPPA) MSA guidelines to be effective August 20, 2002*

bidding subject to the restrictions noted. The categories are either exempt by

- *California Integrated Information Network (CIIN) amendment guidelines*

required herein. However, such contracts are subject to otherwise applicable statutory approval requirements and the reporting requirements of the

- *How to amend a contract which had been previously competitively bid*
support the universities and colleges, or a Joint Powers Agency.

Interim Guidelines for the
acquisition of goods and
services obtained through
the use of

CMAS

Master Agreements

Non-Competitively
Bid Acquisitions

*During the review period
established by
Executive Order D-55-02*

*What about acquisitions that
are not CMAS, Master
Agreements and Non-
Competitively Bid Awards?*

*They ARE NOT
subject to the Executive Order
and the Management Memo*

*They are to be processed
either by the Procurement
Division or by agencies under
their delegated authority,
following the delegation
guidelines*

*Non – IT contracts processed
by awarding department
subject to the EO and MM
IT contracts processed by PD
or by department under a
delegation from the PD*

*Are there any contracts
that can be
awarded without advertising
or competitive bidding?*

Yes

Attachment D
Management Memo 02-02
Addendum #2
(August 9, 2002)

See Attachment D of the Management Memo

Required herein. However, such contracts are subject to otherwise applicable statutory approval requirements and the reporting requirements of the Management Memo.

- a. Contracts for the work or services of a state, local or federal agency, the University of California, the California State University, a California community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.

*What about the streamlined
procurement process
applicable to awards under
\$100,000 to **Small Businesses**
and **DVBES**?*

- ✓ Two price quotations from two Certified Small Businesses or DVBES if award is to a Certified Small Business or a Certified DVBE

Interim Guidelines

First: Clarification

A Change in "Language"

Sole Source
Contract

Non-Competitively Bid
Contract

Expanded Coverage

Master
Agreement

- Master Service Agreement
- Master Purchase Agreement
- Master Rental Agreement
- State Price Schedule
- Western States Contracting Alliance
- Cal-Store Master Purchase Agreement

Interim Guidelines

- CMAS and Master Agreements
- Non-Competitively Bid Contracts

CMAS and Master Agreements

IT Goods and Services & Non-IT Services

- Solicit and obtain offers from 3 suppliers
 - Including one small business (if available)
- If less than 3 offers received
 - Solicitation methods must be documented and included with contract report to DGS
- If only one source is known (competing offers cannot be obtained)
 - Then non-competitive bid process must be followed

- Variance of model contract terms permitted *ONLY* with DGS approval

DOLLAR LIMIT

IT Goods and Services

CMAS	\$500,000
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NO EXEMPTIONS

Master Agreements	\$500,000
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Lower dollar limits established by existing agreements may further reduce this maximum

DOLLAR LIMIT

Non-IT Services

CMAS \$250,000

NO EXEMPTIONS

Master Agreements \$250,000

NO EXEMPTIONS

DOLLAR LIMIT

Non-IT Goods

CMAS \$100,000

NO EXEMPTIONS

Master Agreements \$100,000

NO EXEMPTIONS

EFFECTIVE AUGUST 20, 2002

Non-IT Goods

CMAS \$250,000

NO EXEMPTIONS

Master Agreements \$250,000

NO EXEMPTIONS

*PROCUREMENTS OVER \$100,000
MUST MEET THE CRITERIA
OF THE EXECUTIVE ORDER*

Effective August 20, 2002

*PROCUREMENTS OVER \$100,000
MUST MEET THE CRITERIA
OF THE EXECUTIVE ORDER*

Effective August 20, 2002

*PROCUREMENTS OVER \$250,000
MUST MEET THE CRITERIA
OF THE EXECUTIVE ORDER*

- Required to ensure the provision of essential services; or
- Where public health or safety so require; or
- In the case of an emergency as defined in Public Contract Code 1102; or
- To avoid financial loss to the state.

Attachment C Of Management Memo

Procedures and Definitions regarding Executive Order D-55-02

1) The amount of any contract or contracts exceeding \$100,000 shall be limited to the following persons:

- a) Agency Secretaries or their immediate next ranking official, or
- b) For departments or other entities not reporting to an Agency Secretary, approval authority is limited to the highest two ranking executive officials.

2) Required approvals for CMAS and Master Agreement contracts exceeding \$100,000 shall be limited to the following persons:

- a) For departments or other entities not reporting to an Agency Secretary, approval authority is limited to the highest two ranking executive officials.
- b) For departments or other entities not reporting to an Agency Secretary, approval authority is limited to the highest two ranking executive officials.

3) Paragraph #6 of the Executive Order applies additional qualifying criteria in addition to those that are statutorily required. Approval of contracts exceeding \$100,000, as covered by the Executive Order, must contain documentation of facts that support the existence of any of the applicable criteria.

4) Definitions of Paragraph 6 Criteria

- a) Essential services

4) Definitions of Paragraph 6 Criteria

- a) Essential services

Includes services determined to be critically necessary for the operation of the department or the delivery of services required to be provided by the department.

- b) Required for Health and Safety

Goods or services determined as necessary to preserve, protect or promote public health, including persons under the care or custody of the state, or necessary to preserve, protect or promote public safety.

- c) Emergency (Public Contract Code 1102)

A sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, property or essential public service.

(Note: In the event of an emergency, statute permits the immediate acquisition of necessary goods and services as needed, with necessary approvals and documentation to follow.)

- d) Avoidance of financial loss to the state:

Goods and services necessary, as determined, to prevent the waste of state funds or resources, including but not limited to:

1. Failure to obtain will result in the loss of federal or other funding.
2. Failure to obtain will result in damage to or deterioration of state resources.
3. Failure to obtain will result in the interruption of essential state operations or programs.
4. Failure to obtain could expose the state to liability based on the risk of damage to the property of others.
5. Failure to obtain could expose the state to risk based on the harm to the public.
6. Failure to obtain could result in the imposition of additional payments, penalties or fines.

4) Definitions of Paragraph 6 Criteria

- a) Essential services

Includes services determined to be critically necessary for the operation of the department or the delivery of services required to be provided by the department.

- b) Required for Health and Safety

Goods or services determined as necessary to preserve, protect or promote public health, including persons under the care or custody of the state, or necessary to preserve, protect or promote public safety.

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(Note: In the event of an emergency, statute permits the immediate acquisition of necessary goods and services as needed, with necessary approvals and documentation to follow.)

- d) Avoidance of financial loss to the state:

Goods and services necessary, as determined, to prevent the waste of state funds or resources, including but not limited to:

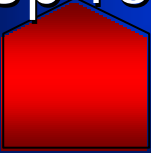
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3. Failure to obtain will result in the interruption of essential state operations or programs.
4. Failure to obtain could expose the state to liability based on the risk of damage to the property of others.
5. Failure to obtain could expose the state to risk based on the harm to the public.
6. Failure to obtain could result in the imposition of additional payments, penalties or fines.

APPROVALS REQUIRED

Up To \$100,000

Effective August 20, 2002

Up To \$250,000



Non-IT Services

- CMAS over \$35,000
 - ✓ DGS/Procurement Division
- Masters over \$35,000
 - ✓ DGS/Office of Legal Services

Non-IT Services

Effective August 20, 2002

- CMAS over \$50,000
 - ✓ DGS/Procurement Division
- Masters over \$50,000
 - ✓ DGS/Office of Legal Services

Over \$100,000

Effective August 20, 2002



Over \$250,000

IT Goods and Services

- ✓ Department Director or Immediate Next Ranking Official
- AND*
- ✓ Agency Secretary or Immediate Next Ranking Official

Non-IT Services

- ✓ Department Director or Immediate Next Ranking Official
AND
- ✓ Agency Secretary or Immediate Next Ranking Official
AND
- At \$35,000 and up:
- ✓ CMAS: DGS/Procurement Division
- ✓ Masters: DGS/Office of Legal Services

Non-IT Services

- ✓ Department Director or Immediate Next Ranking Official
AND
- ✓ Agency Secretary or Immediate Next Ranking Official
AND
- At \$50,000 and up effective August 20, 2002:
- ✓ CMAS: DGS/Procurement Division
- ✓ Masters: DGS/Office of Legal Services

For departments or other entities not reporting to a Department Director

- ✓ Approval authority limited to the highest two ranking executive officials
AND
- ✓ Agency Secretaries or their Immediate Next Ranking Official
 - If no Agency Secretary, approval authority limited to the highest two ranking executive officials

- If over \$100,000 contract must be reported to DGS within 5 working days after execution, using " Notice of Contract Award" form
 - ✓ IT Goods and Services
Over \$100,000 to \$500,000
 - ✓ Non-IT Services
Over \$100,000 to \$250,000

Effective August 20, 2002

- If over \$250,000 contract must be reported to DGS within 5 working days after execution, using " Notice of Contract Award" form
 - ✓ IT Goods and Services
Over \$250,000 to \$500,000
 - ✓ Non-IT Services
Up to \$250,000

If GS \$Mart is used
for financing,
DGS/Procurement Division
approval required
before award

Non-IT Goods

Non-IT Goods CMAS

Limited to \$100,000
NO EXEMPTIONS

Non-IT Goods

CMAS effective August 20, 2002

Limited to \$250,000
NO EXEMPTIONS

Non-IT Goods

Master Agreements

Competitively bid master contracts
for Non-IT goods are *EXEMPT* from
the Executive Order

If GS \$Mart is used
for financing,
DGS/Procurement Division
approval required
before award

Non-Competitively Bid Contracts

IT Goods and Services

- Emergency
- Only Source

Public Contract Code 12102

Non-IT Services

*✓ Must comply with
Public Contract Code 10340*

Non-IT Goods

- Emergency
- Only Source

*Public Contract Codes 10301
And 10302*

*ALL non-competitively bid
CMAS, Master Agreement and
Commodity contracts over
\$100,000 must meet the criteria
of the Executive Order*

- Required to ensure the provision of essential services; or
- Where public health or safety so require; or
- In the case of an emergency as defined in Public Contract Code 1102; or
- To avoid financial loss to the state.

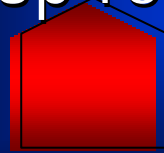
APPROVALS REQUIRED

Up To \$100,000



Effective August 20, 2002

Up To \$250,000



- ✓ Department Director or Immediate Next Ranking Official **(No delegation)**
AND
- ✓ Agency Secretary or Immediate Next Ranking Official **(No delegation)**
AND
- ✓ DGS/Procurement Division
 - *IT Goods and Services and Non-IT Goods*
 - Over \$25,000
 - Over \$5,000 – No NCB required with delegated purchasing authority
 - *Non-IT Services* - Over \$5,000

Over \$100,000

Effective August 20, 2002



Over \$250,000

- ✓ Department Director or Immediate Next Ranking Official **(No delegation)**
AND
- ✓ Agency Secretary or Immediate Next Ranking Official **(No delegation)**
AND
- ✓ DGS/Procurement Division
 - At \$25,000 and up for *IT Goods and Services and Non-IT Goods*
 - At \$5,000 and up for *Non-IT Services*
- AND
- ✓ Department of Finance

For departments or other entities not reporting to a Department Director

- ✓ Approval authority limited to the highest two ranking executive officials (**No delegation**)

AND

- ✓ Agency Secretaries or their Immediate Next Ranking Official (**No delegation**)
 - If no Agency Secretary, approval authority limited to the highest two ranking executive officials (**No delegation**)

All Non-Competitively Bid Contract Requests

- Submit to DGS/Procurement Division
- If for Services
 - ✓ Attach Std. 821
 - ✓ DGS/Procurement Division will transmit those over \$100,000 to the Department of Finance for review and approval

All Non-Competitively Bid Contract Requests Effective August 20, 2002

- Submit to DGS/Procurement Division
- If for Services
 - ✓ Attach Std. 821
 - ✓ DGS/Procurement Division will transmit those over \$250,000 to the Department of Finance for review and approval

Actions Under Way

Executive Summary

*DGS/Procurement Division
Recommendations
for Procurement Reform
Submitted to the Task Team
August 12, 2002*

◆ DGS should develop a uniform set of policies, procedures and processes to apply to all state contracting and procurement transactions to foster competition.

Executive Summary

The Department of General Services' (DGS) recommendations to the Task Force are designed to strengthen the contracting and

*Available at
<http://pd.dgs.ca.gov/>*

High Quality

◆ DGS should broaden the scope of the Quality Assurance Program so that state agencies conducting any state Purchasing are required to do so under authority granted by DGS, including orders placed with contractors holding leveraged procurement instruments established by DGS, such as California Multiple Award Schedules (CMAS) and Master Agreements.

◆ DGS should enhance its current process for auditing state agency contracting and procurement transactions. DGS should maintain minimum standards that must be met by state agencies to use leveraged procurement instruments on an interim basis, and more stringent standards to achieve higher levels of authority.

◆ DGS should develop a uniform set of policies, procedures and processes to apply to all state contracting and procurement transactions to foster competition.

What You Can Do

Become thoroughly familiar with Executive Order D-55-02

MANAGEMENT MEMO

NUMBER

02-12, ADDENDUM #1

*And Management Memo 02-12
ADDENDUM #2*

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Access the Procurement Division's Web Site on a regular basis for the latest information

The Procurement Division's
Web Site
www.dgs.ca.gov/pd

Forward to Day 91